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Anne Barrett

PATENT

Applicant: Van Tassel et al.

Serial No.: 09/382,275

Filed: August 25, 1999

Title: IMPLANTABLE DEVICE
FOR PROMOTING REPAIR
OF A BODY LUMEN

EXAMINER: Hieu Phan

Group Art Unit: 3738

Atty Docket No.: 20220-311

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

REQUEST FOR RECONSIDERATION

Commissioner for Patents
Washington, D.C. 20231

Sir:

This Request For Reconsideration is filed in response to the Official Action dated November 27, 2002 for the above-referenced application. Claims 1, 2, 30, 43-45, 58-64 and 73-75 are currently pending. No amendments are made to the claims in this response.

In the current Official Action, the Examiner has again rejected the claims based either on U.S. Patent No. 5,843,172 to *Yan* by itself (anticipation) or on the *Yan* reference in combination with U.S. Patent No. 5,078,736 to *Behl* (obviousness). In this regard, it is noted that each of these references was the subject of previous rejections in this application. These references were also the subject of an in-person interview with the Examiner on September 24, 2002.

At the interview, the Examiner agreed that the *Yan* and *Behl* prior art references were overcome by the then-amended (and now presently pending) claims (subject only to finding other prior art in an update search). As a result, it is puzzling to the Applicants why the Examiner's position has now apparently been reversed and why the Applicants are again faced with a rejection based on these same two references. Nonetheless, in an effort to advance the prosecution of the present application, the Applicants again emphasize below the distinctions between the *Yan* and *Behl* references as compared to the claimed invention.

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First, the Applicants again emphasize that the premise of the present invention contrasts sharply with the conventional wisdom of the prior art, namely, that restenosis is best prevented by *promoting* organized cell growth in the body of a stent not *discouraging* cell growth around the stent as in the prior art. Accordingly, when a stent is formed to have interconnected microholes distributed throughout the stent body along substantially the length of said body as in the presently claimed invention, cells infiltrate those microholes such that the stent itself becomes a living structure that mirrors the tissue makeup of a normal body lumen (e.g., an artery). As such, cell growth in the stent is controlled naturally and does not unnaturally proliferate so as to cause a condition of restenosis.

The *Yan* reference does not disclose a stent in accordance with this presently claimed invention. Instead, *Yan* simply discloses a commonly known stent of the prior art where there are large interstitial openings extending directly from the external surface of the stent to the internal surface of the stent. Such a structure does not lead to controlled cell growth.

As expressed at the interview, it is conceded that *Yan* discloses the presence of very small cavities (in the range of .01 and 20 microns in size) and that these cavities may be interconnected with one another. See Column 3, lines 66-67 and Column 4, lines 23-26. However, these small cavities are present on the wire or metal that is used to weave or form the stent. They are *not* microholes distributed throughout the stent body along substantially the length of said body as in the presently claimed invention.

In other words, even though the stent wire itself may have small interconnecting cavities, this does not change the fact that the stent resulting from weaving or forming this wire still has very large interstitial openings along the body of the stent as shown in Figure 1. And as stated previously, the design of Figure 1 is directly contrary to the premise of the presently claimed invention and thus cannot promote an organized growth pattern of infiltrating cells in a manner that prevents restenosis as with the present invention. For at least this reason, it is again submitted that *Yan* cannot be properly asserted as anticipating the present invention.

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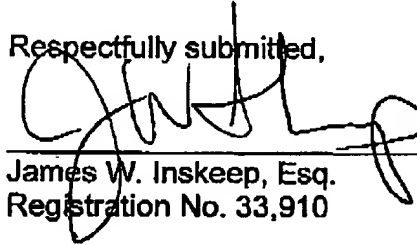
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And the *Behl* reference fails to remedy the deficiencies of *Yan*. Indeed, *Behl* discloses the same conventional prior art design reflected in the *Yan* reference, namely, the presence of large interstitial openings extending directly from the external surface of the stent to the internal surface of the stent. As a result, the *Behl* reference also fails to disclose the structure required to promote an organized growth pattern of infiltrating cells.

In view of the foregoing, it is thus again submitted that each of the pending claims 1, 2, 30, 43-45, 58-64 and 73-75 are allowable over the prior art and allowance is hereby requested. If, however, additional questions or issues arise, the Examiner is cordially encouraged to contact the undersigned telephonically in order to expedite the advancement of this application to issuance.

The Commissioner is authorized to charge any fee which may be required in connection with this Request for Consideration to deposit account No. 50-1901.

Respectfully submitted,



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